

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BARBARA FORLASTRO and ROBERT G. FORLASTRO,
AS CO-ADMINISTRATORS OF THE ESTATE OF
ROBERT J. FORLASTRO,

Case No.: 1:07-CV-3288
(RPP) (FM)

Plaintiffs,

Affirmation in Opposition

-against-

JAMES COLLINS,

Defendant.

ELIZABETH M. HECHT, an attorney duly admitted to practice law before the courts of the State of New York and before the United States District Courts for the Southern and Eastern Districts of New York, hereby affirms the truth of the following under penalties of perjury:

1. I am a member of the law firm of Mead Hecht Conklin & Gallagher, LLP, attorneys for defendant, James Collins, herein and I was trial counsel at the trial of this action before The Hon. Robert P. Patterson, Jr. and a jury on March 17 and 18, 2008.

2. This Affirmation is respectfully submitted along with the accompanying Memorandum of Law in opposition to plaintiffs' motion for a new trial pursuant to FRCP 59 on the ground that the said verdict was "facially inconsistent."

3. It is urged that any objection to the verdict on the ground of alleged inconsistency should have been voiced prior to the discharge of the jury.

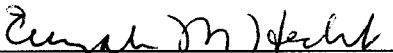
4. It is further urged that the verdict was not inconsistent and that the stringent standard of FRCP has not been met.

5. Substantial justice has been done by the jury verdict as returned and the

presumption applies that the jury followed this court's instructions on the law in rendering its verdict. Those instructions, with which neither party voiced objection, accurately set forth the law as to negligence, statutory violations and substantial factor/proximate cause.

6. In this case where there was ample evidence before the fact finders that the actions of plaintiffs' decedent were solely responsible for his own demise, the verdict, which reflects that substantiated view of the proof, should not be disturbed.

Dated: Mamaroneck, New York
April 1, 2008


ELIZABETH M. HECHT (8275)